

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA

§

§

vs.

§

1:12-cr-00317-LY

§

WILLIAM ALFRED MILLS, III

§

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

**TO: THE HONORABLE LEE YEAKEL
UNITED STATES DISTRICT JUDGE**

Before the Court is the petition of the United States Probation Office recommending that the Court revoke Defendant's term of supervised release. The Magistrate Court submits this Report and Recommendation to the District Court, pursuant to 28 U.S.C. § 636(b), 18 U.S.C. § 3401(i), and Rule 1(d) of Appendix C of the Local Court Rules of the United States District Court for the Western District of Texas.

I. Procedural Background

On December 13, 2012, Defendant William Alfred Mills, III was sentenced to ninety-six months imprisonment, followed by a three-year term of supervised release, for Possession of a Firearm by a Person who has been Convicted of a Crime Punishable by a Term of Imprisonment Exceeding One Year, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). His supervision commenced on July 19, 2019, but was revoked on September 25, 2020, and Mr. Mills was sentenced to one month of incarceration followed by a one-year term of supervised release. Dkt. 62. His current term of supervised release began on October 8, 2020.

The Probation Office filed a Petition for Warrant or Summons for Offender under Supervision (“Petition”) on January 25, 2021. Dkt. 63. In the Petition, the Probation Office alleges that Mr. Mills submitted to a random drug test that was positive for amphetamines and cocaine on January 15, 2021, and was arrested by the Austin Police Department and charged with Driving While Intoxicated later the same day. The conduct alleged violates the following conditions of Mr. Mills’s supervision:

- Mandatory Condition No. 1: “The defendant shall not commit another federal, state, or local crime during the term of supervision.”
- Special Condition: “The defendant shall refrain from the use of alcohol and all other intoxicants during the term of supervision.”
- Standard Condition No. 7: “The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.”

Id. A warrant was issued for Mr. Mills’s arrest on January 25, 2021. Dkt. 64. A preliminary and final revocation hearing is set for 1 p.m. on February 23, 2021, before the undersigned Magistrate Judge. Dkt. 77. Mr. Mills waived his right to a preliminary revocation hearing. Dkt. 74.

II. Analysis

Pursuant to Fed. R. Crim. P. 32.1(b)(2) and (c), a person may waive a revocation hearing, and a hearing before modifying the conditions of probation or supervised release is not required if: (A) the person waives the hearing; or (B) the relief sought is favorable to the person and does not extend the term of supervised release; and (C) an attorney for the government has received notice of the relief sought, has had reasonable opportunity to object, and has not done so.

On February 22, 2021, the parties submitted an Amended Agreed Recommended Disposition in Final Revocation Proceeding and Waiver of Defendant’s Appearance and Waiver of Hearing

(“Agreed Recommended Disposition”). Dkt. 78. The Agreed Recommended Disposition states that Mr. Mills wishes to plead true to violating Mandatory Condition No. 1, the Special Condition to refrain from the use of alcohol, and Standard Condition No. 7. *Id.* at 1-2. Specifically:

Mr. Mills admits that, he committed the offense of Driving While Intoxicated in Travis County, Texas (Cause No. C-1-CR-21-200434) and that he failed to abstain from alcohol and all other intoxicants in that he consumed alcohol and tested positive for amphetamines and cocaine, and that he failed to refrain from excessive use of alcohol and he also [used a] controlled substance not prescribed by a physician. He asks the Court to accept his plea of true to the alleged violations of the Mandatory Condition No. 1, Special Condition, and Standard Condition No. 7 and find that the proposed agreed resolution of the case would be an appropriate disposition.

Id. at 2.

The filing further states that Mr. Mills’s counsel has reviewed the Petition and the Adjustment Summary prepared by the Probation Office (Dkt. 72) with Mr. Mills and advised him of his right to a preliminary and final revocation hearing, including his rights to either be physically present or to appear by video, and his rights under Fed. R. Crim. P. 32.1(b)(2) to counsel, to the disclosure of the evidence against him, and to make a statement and present mitigating information. Dkt. 78 at 1-2. The Agreed Recommended Disposition states that, after consultation with counsel, Mr. Mills wishes to waive his right to be present at his revocation hearing and also wishes to waive the hearing. *Id.* at 2. The agreed filing further states:

The parties have conferred in this case and agree that an appropriate resolution of this matter would be to accept Mr. Mills’s plea of true to the alleged violations of Mandatory Condition No. 1, Special Condition, and Standard Condition No. 7; revoke Mr. Mills’s term of supervised release; sentence Mr. Mills to a period of incarceration of **eight (8)** months; and find that no supervised release should follow. This disposition is favorable to Mr. Mills, and the Government does not object to it.

Id. at 2-3.

III. Findings of the Court

Based on the parties' agreement and the Agreed Recommended Disposition, as well as Mr. Mills's plea of "True" to the violations of Mandatory Condition No. 1, the Special Condition to refrain from use of alcohol, and Standard Condition No. 7, the Court finds that Mr. Mills violated conditions of his supervised release by using amphetamines and cocaine and committing the offense of Driving While Intoxicated on January 15, 2021.

IV. Recommendations

Based on the agreement of the Government and the Defendant (Dkt. 78), the Court **RECOMMENDS** that Mr. Mills's supervised release be **REVOKED** and that he be sentenced to eight (8) months incarceration, with no supervised release to follow.

V. Objections

Because this is an agreed disposition, there will be no objections to this Report and Recommendation, and the matter is ripe for the District Court to act on it.

SIGNED on February 22, 2021.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE